

## § 1.37-2

1979, by the general tax credit allowed by section 42).

(c) *Married couples must file joint returns.* If the taxpayer is married at the close of the taxable year, the credit provided by section 37 shall be allowed only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year. The preceding sentence shall not apply in the case of a husband and wife who are not members of the same household at any time during the taxable year. For the determination of marital status, see §§ 1.43 and 1.143-1.

(d) *Nonresident aliens ineligible.* No credit is allowed under section 37 to any individual for any taxable year during which that individual is at any time a nonresident alien unless the individual is treated, by reason of an election under section 6013 (g) or (h), as a resident of the United States for that taxable year.

[T.D. 7743, 45 FR 84049, Dec. 22, 1980]

## § 1.37-2 Credit for individuals age 65 or over.

(a) *In general.* This section illustrates the computation of the credit for the elderly in the case of an individual who has attained the age of 65 before the close of the taxable year. This section shall not apply to an individual for any taxable year for which the individual makes the election described in section 37(e)(2) and paragraph (b) of § 1.37-3.

(b) *Computation of credit.* The credit for the elderly for an individual to whom this section applies equals 15 percent of the individual's "section 37 amount" for the taxable year. An individual's "section 37 amount" for a taxable year is the initial amount determined under section 37(b)(2), reduced as provided in section 37(b)(3) and (c)(1).

(c) *Examples.* The computation of the credit for the elderly for individuals to whom this section applies may be illustrated by the following examples:

*Example 1.* A, a single individual who is 67 years old, has adjusted gross income of \$8,000 for the calendar year 1977. A also receives social security payments of \$1,450 during 1977. A does not itemize deductions. A's credit for the elderly is \$120, computed as follows:

Initial amount under section 37(b)(2) .....	\$2,500
Reductions required by section 37	
(b)(3) and (c)(1):	
Social security payments .....	\$1,450

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One-half the excess of adjusted gross income over \$7,500 .....	250	1,700
Section 37 amount .....		800
15 pct. of \$800 .....		\$120

A's tax from the tax tables, which reflect the allowance of the general tax credit, is \$662. Accordingly, the limitation of section 37(c)(2) and paragraph (b) of § 1.37-1 does not reduce A's credit for the elderly.

*Example 2.* H and W, who have both attained the age of 65, file a joint return for calendar year 1977. For that year H and W have adjusted gross income of \$8,120; H also receives a railroad retirement pension of \$1,550, and W receives social security payments of \$1,200. H and W do not itemize deductions. The credit for the elderly allowed to H and W for 1977 is \$139, computed as follows:

Initial amount under section 37(b)(2) .....		\$3,750
Reductions required by section 37		
(b)(3):		
Railroad retirement pension .....	\$1,550	
Social Security payments .....	1,200	2,750
Section 37 amount .....		1,000
15 pct. of \$1,000 .....		150
Limitation based upon amount of tax (derived from table reflecting allowance of general tax credit) ..		\$139

Since the adjusted gross income of H and W is not greater than \$10,000, no reduction of the initial amount is required under section 37 (c)(1).

[T.D. 7743, 45 FR 84050, Dec. 22, 1980]

## § 1.37-3 Credit for individuals under age 65 who have public retirement system income.

(a) *In general.* This section provides rules for the computation of the credit for the elderly under section 37(e) in the case of an individual who has not attained the age of 65 before the close of the taxable year and whose gross income for the taxable year includes retirement income within the meaning of paragraph (d)(1)(ii) of this section (*i.e.*, under a public retirement system). If such an individual is married within the meaning of section 143 at the close of the taxable year and the spouse of the individual has attained the age of 65 before the close of the taxable year, this section shall apply to the individual for the taxable year only if both spouses make the election described in paragraph (b) of this section. If both spouses make the election described in paragraph (b) of this section for the taxable year, the credit of each spouse